

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Christine Linke et al.
Application Number: 10/566,220
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Group Art Unit: 3637
Examiner: Janet Marie Wilkens
Title: REFRIGERATION DEVICE HAVING A DOOR
SAFETY CATCH

Mail Stop Appeal Brief - Patents

Commissioner for Patents

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REVISED APPEAL BRIEF

Pursuant to 37 CFR 1.192, and in response to the Notification of Non-Compliant Appeal Brief of October 22, 2010, Appellants hereby file a revised appeal brief in the above-identified application. The requisite fee set forth in 37 CFR 1.17(f) has been paid with the filing of the Appeal Brief on October 6, 2010.

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(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 1–18, 24 and 37 are cancelled. Claims 19–23, 25–36, and 38–40 are pending in the applications. Claims 20, 26, 30 and 38–40 include patentable subject matter as most recently indicated in the September 3, 2010 Pre-Appeal Brief Conference Decision.

(4) STATUS OF AMENDMENTS

The pending claims identified in the Claims Appendix correspond to the claims entered following the submission of the Amendment on June 21, 2010.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

In an exemplary embodiment as recited in independent claim 19, the present invention relates to a refrigerator that includes a housing having a door safety catch 1 (see page 4, lines 27-28). The housing has at least two housing parts, including a body 2 and at least one door 3, and the housing encloses a heat-insulated interior compartment (see page 4, lines 28-31, and page 5, line 26).

The door safety catch 1 includes a catch element 7 pivotably mounted against a restoring force 8 on a first one of the body housing part 2 or the door housing part 3 and a projection 12 mounted on a second one of the body housing part or the door housing part and cooperating with the catch element 7 (see page 5, lines 1-6, and Figure 1). The door safety catch 1 further includes a shaft 19 about which the catch element 7 can be pivoted mounted in the first one of the body housing part 2 or the door housing part 3, the shaft 19 being mounted on a side wall of the first one of the body housing part or the door housing part in a configuration in which the shaft crosses a side wall of the first one of the body housing part 2 or the door housing part 3 (see page 5, lines 31-33 and Figure 2; see also page 6, lines 12-34).

In related art door safety catches for refrigerators, a bearing is provided that itself is mounted to the refrigerator door or body and the shaft of the catch element is retained in this bearing. Considerable forces act on this bearing when opening and closing the refrigerator door. If the bearing is, in particular, configured as a plastic housing shell, the bearing can be damaged and even destroyed in extreme cases. On the other hand, the shaft of the catch

element according to the present invention is mounted so that it crosses a side surface of the respective door or body of the refrigerator on which the catch element is mounted, whereupon considerable forces acting on the shaft can be introduced into this respective door or body of the refrigerator and corresponding reduction in stresses on a housing shell can be achieved as well as a reduction of the mechanical loading capacity demands imposed on the housing shell (see page 2, lines 16-22).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(a) Whether claims 19, 21-23, 25, 27, 28, and 31-36 are anticipated by Anderson (U.S. Patent No. 2,385,961) under 35 U.S.C. § 102(b).

(b) Whether claim 29 is unpatentable over Anderson in view of Parera (U.S. Patent No. 3,733,749) under 35 U.S.C. §103(a).

(7) ARGUMENT

Claims 19, 21-23, 25, 27, 28, and 31-36 are NOT anticipated by Anderson (U.S. Patent No. 2,385,961) under 35 U.S.C. § 102(b).

Claims 19, 21-23, 25, 27, 28, and 31-36 stand rejected under 35 U.S.C. §102(b) as being anticipated by Anderson (U.S. Patent No. 2,385,961). Appellants respectfully traverse this rejection.

The grounds of rejection state that Anderson teaches all of the limitations set forth in the claims, including a catch element (38, 28, 35) with a shaft (27) about which the catch element can be pivoted and that is mounted in a first housing part (the door) while crossing a side wall (top wall 24 found in the door) of the first housing part. The grounds of rejection further state that a section of the shaft (top end portion) engages the side wall (24) of the first housing part via a receiving portion (opening) and the shaft is mounted on the side wall in a configuration in which the shaft crosses it (see Fig. 5). Namely, the grounds of rejection allege, the catch element is rotated so that it moves across the surfaces of members 24 and the top of the door and the shaft is mounted to and intersects/runs counter to members 24. Finally, the grounds of rejection state that members 24 can be considered side walls of the door, indicating that these members act as barriers and form part of a housing for the latch and are located in the door.

Appellants respectfully submit that one of ordinary skill in the art would recognize that the sides 24 of the sheet metal housing of the latch of Anderson are not “walls” of a door. Rather, these sides are not walls in that they do not form, with other walls, for example, defined space. Further, the grounds of rejection inherently acknowledge this in providing that “the members ...form part of a housing.”

In Anderson, shaft or rod 27 of the latch is not mounted on outer side 12 or on inner plate 8 but is, instead, mounted to a structure that is not a wall - specifically, supporting plate 14 - that in fact itself is located in an interior space bounded by “walls” - the outer side 12 and the inner plate 8. Appellants note that the sides 24 of the sheet metal housing of the latch of

Anderson are formed as a pair of spaced, parallel sheet metal flanges and these sides 24 of Anderson, along with the remainder of the latch of Anderson, are mounted on the supporting plate 14 that extends behind the outer side 12 of the door 7 of the Anderson refrigerator. The "shaft" 27 of the Anderson refrigerator is mounted to the "door housing part" 7 by virtue of the "shaft" or rod 27 being retained in the sheet metal latch housing having the spaced parallel sides 24 and flanges 26 with this housing, in turn, being mounted to the door 7 via screws passed through slotted openings of the flanges 26 and the flanges 26 being mounted on the supporting plate 14. Thus, Appellants respectfully submit that one of ordinary skill in the art would understand that the actual "walls" of the door 7 of the Anderson '961 refrigerator are the outer side 12 and inner plate 8 of the door 7. As such, Appellants respectfully submit that independent claim 19 is allowable. Claims 21-23, 25, 27, 28, and 31 - 36 depend ultimately from claim 19 and are allowable for the same reasons as claim 19, as well as for their own patentable features.

Claim 29 is NOT unpatentable over Anderson in view of Parera (U.S. Patent No. 3,733,749) under 35 U.S.C. §103(a).

Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of Parera (U.S. Patent No. 3,733,749). Appellants respectfully traverse this rejection. As noted, Anderson discloses a refrigerator having a door safety catch. Parera discloses reversible hinges between a door and a housing part. Appellants respectfully submit that neither Anderson nor Parera, alone or in combination, disclose or suggest the refrigerator

having the door safety catch of the present invention. For example, Anderson does not disclose or suggest a refrigerator having a shaft about which a catch element can be pivoted mounted in a body housing part or a door housing part, with the shaft being mounted on a side wall of this respective body housing part or door housing part in a configuration in which the shaft crosses a side wall of the respective body housing part or door housing part. Parera does not overcome the deficiencies of Anderson in the disclosure of its reversible hinges.

(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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CLAIMS APPENDIX

1 - 18. (Canceled)

19. (Rejected) A refrigerator comprising:

a housing;

said housing having at least two housing parts, including a body and at least one door;

said housing enclosing a heat-insulated interior compartment; said housing having a door safety catch;

said door safety catch including a catch element pivotably mounted against a restoring force on a first one of the body housing part or the door housing part and a projection mounted on a second one of the body housing part or the door housing part and cooperating with said catch element; and a shaft about which said catch element can be pivoted mounted in said first one of the body housing part or the door housing part, said shaft being mounted on a side wall of said first one of the body housing part or the door housing part in a configuration in which said shaft crosses the side wall of said first one of the body housing part or the door housing part.

20. (Objected to) The refrigerator according to claim 19, including a section of said shaft engaging in said first housing part received by a shank which projects from said side wall of said housing part and into said housing part.

21. (Rejected) The refrigerator according to claim 19, including said first housing part is said door.

22. (Rejected) The refrigerator according to claim 21, including said side wall is one of an upper or lower end profile of said door.

23. (Rejected) The refrigerator according to claim 19, including a spring for producing said restoring force on said catch element.

24. (Canceled)

25. (Rejected) The refrigerator according to claim 23, including said spring is a selected one of a torsion spring wrapped around said shaft or a compression spring.

26. (Objected to) The refrigerator according to claim 19, including said shaft is a screw.

27. (Rejected) The refrigerator according to claim 19, including a housing which accommodates said catch element.

28. (Rejected) The refrigerator according to claim 27, including a spring accommodated in said housing.

29. (Rejected) The refrigerator according to claim 27, including said door mountable on said body hinged on the right or on the left as desired and said housing mounted on said door in a selected one of two orientations each of which being an orientation that is the same as the other orientation except displaced.

30. (Objected to) The refrigerator according to claim 29, including said housing formed of two half shells which substantially are a mirror image of one another.

31. (Rejected) The refrigerator according to claim 19, including said projection includes at least two sloping faces facing away from one another to cooperate with said catch element.

32. (Rejected) The refrigerator according to claim 31, including one of said sloping faces in contact with said catch element when said door is closed is at a larger angle (α) to the direction of movement of said door than the other sloping face.

33. (Rejected) The refrigerator according to claim 19, including said projection formed by a tab projecting from said body.

34. (Rejected) The refrigerator according to claim 19, including said projection fixed on a door bearing attached to said body.

35. (Rejected) The refrigerator according to claim 19, including said catch element having two sloping faces facing away from one another to cooperate with said projection.

36. (Rejected) The refrigerator according to claim 35, including one of said sloping faces in contact with said projection when said door is closed is at a larger angle (α) to the direction of movement of said door than the other sloping face.

37. (Canceled)

38. (Objected to) The refrigerator according to claim 19, including said first one of the body housing part or the door housing part includes a front wall and a rear wall that define therebetween an intermediate space and said side wall of said first one of the body housing part or the door housing part extends between and is connected to said front wall and said rear wall of said first one of the body housing part or the door housing part.

39. (Objected to) The refrigerator according to claim 38, including said side wall of said first one of the body housing part or the door housing part delimits a portion of the exterior of said

first one of the body housing part or the door housing part, said shaft has a predetermined length formed of a major portion and a minor portion having a smaller length than the major portion, said catch element is pivotally mounted on said shaft such that the major portion of said shaft extends outwardly beyond one side of said catch element, and the major portion of said shaft extends into said side wall of said first one of the body housing part or the door housing part.

40. (Objected to) The refrigerator according to claim 39, including insulating material is disposed in said intermediate space defined between said front wall and said rear wall of said first one of the body housing part or the door housing part and said side wall, said front wall, and said rear wall of said first one of the body housing part or the door housing part together form a barrier that prevents migration of insulating material exteriorly of said first one of the body housing part or the door housing part.

EVIDENCE APPENDIX

None

RELATED APPEALS APPENDIX

None